

IN RE: James Barry Cloyd)
Map 075-00-0, Parcel 44.00) Davidson County
Multi-Class Property)
Tax Year 2004)

The taxpayer shall have **a right to a hearing and determination to show reasonable cause** for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1st of the year subsequent to the year in which the assessment is made (*emphasis added*).

In analyzing and reviewing Tenn. Code Ann. § 67-5-1412(e), the Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of 'reasonable cause' provisions to waive these requirements except **where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.** (*emphasis added.*) *Associated Pipeline Contractors Inc.* (Williamson County, Tax Year 1992, Assessment Appeals Commission, Aug. 11, 1994). See also *John Orovets*, (Cheatham County, Tax Year 1991, Assessment Appeals Commission, Dec. 3, 1993).

Thus, for the State Board of Equalization to have jurisdiction to this appeal, the taxpayers must show that circumstances beyond their control prevented them from appealing to the Davidson County Board of Equalization. It is the taxpayer's burden to prove that they are entitled to the requested relief.

Dr. Cloyd appealed his 2003 assessment to the Assessment Appeals Commission and a decision was rendered on August 9, 2005 (a copy attached). As for 2004 jurisdiction it was determined "Dr. Cloyd filed his 2003 appeal on October 22, 2003, and it is likely he believed that the state administrative process took care of 2004 as well. . ." Dr. Cloyd was permitted to amend his appeal to include tax year 2004, "without objection" at the Assessment Appeals Commission level. It is not that unusual for an appeal to still be pending when the time for filing appeals for subsequent tax years arrives. This most typically occurs when an appeal has previously been continued or appealed to the Assessment Appeals Commission. *Batson East-Land Co., Inc.* (Administrative Judge, Montgomery County, Tax Years 1992-1993), *Thomas J. Epps* (Assessment Appeals Commission, McMinn County, Tax Year 1992) and *Oak Ridge Properties*, (Assessment Appeals Commission, Tax Years 1993-1994).¹

The administrative judge is of the opinion that there is sufficient reasonable cause to establish that other circumstances were beyond the taxpayers' control and prevented him from filing with the County Board.²

ORDER

The administrative judge believes that "reasonable cause" exists and Dr. James B. Cloyd has sustained his burden and therefore the State Board of Equalization has jurisdiction to hear this appeal. The cause will be set for a hearing on Tuesday, July 18, 2006 at 8:30 a.m. on the issue of value.

¹ *Practitioner's Manual for Appealing Property Taxes in Tennessee*, January 7, 1997 – Prepared by Mark J. Minsky (ALJ-State Board of Equalization) and Edwind Yieser.

² The setting of a _____ before the Assessment Appeals Commission is beyond the control of the ordinary taxpayer.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 25th day of April, 2006.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. James B. Cloyd
Jo Ann North, Assessor of Property